



Comptroller General
of the United States

1402010

Washington, D.C. 20548

Decision

Matter of: New Environment, Inc.--Reconsideration

File: B-258060.2

Date: October 20, 1994

DECISION

New Environment, Inc. (NEI) requests reconsideration of our August 18, 1994, summary dismissal of its protest against the rejection of its bid as nonresponsive under Department of the Army invitation for bids (IFB) No. DAKF24-94-B-0013, for hazardous material training.

We deny the request.

The Army rejected NEI's bid for failure to offer the required 120-day minimum bid acceptance period; the IFB stated that "The bidder allows the following acceptance period: _____," and NEI inserted "60" days in the space. The failure to offer at least the minimum acceptance period renders a bid nonresponsive. See Taylor Lumber & Treating, Inc., B-229715, Dec. 23, 1987, 87-2 CPD ¶ 625. NEI argued in its protest that, although it inserted 60 days in the space, it intended this to indicate that it was offering 60 days in addition to the required 120 days, that is, a total of 180 days. NEI maintained that its intent in this regard was clear, since the IFB stated that bidders "may specify a longer acceptance period than the Government's minimum requirement" in the space provided. We rejected this argument on the basis that, notwithstanding that the IFB allowed bidders to offer a longer acceptance period, the manner in which NEI expressed its alleged intent to do so left its bid subject to the interpretation that it was offering only a 60-day acceptance period.

In requesting reconsideration, NEI essentially reasserts the arguments on which its protest was based, that is, it argues that its insertion of 60 days in the acceptance period provision was subject to only one interpretation--that 180 total days were being offered--when taken in the context of all solicitation provisions. Specifically, NEI notes that section K.9 of the IFB represented that the bidder agreed to be bound by its bid "if that bid is accepted in writing within (1) the acceptance period stated in paragraph (c) above or any longer acceptance period stated in paragraph (d) above." NEI maintains that interpreting its

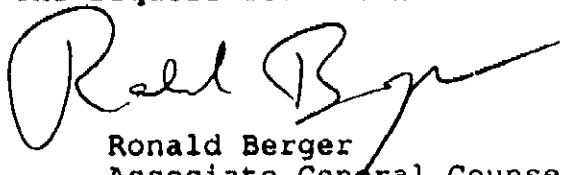
offered acceptance period as only 60 days, rather than 180 days, is inconsistent with this language.

NEI's argument does not warrant reconsidering this matter. Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must either show that our prior decision may contain errors of fact or law, or present information not previously considered that may warrant reversal or modification of our decision. 4 C.F.R. § 21.12(a) (1994). The repetition of arguments made during consideration of the original protest essentially constitutes mere disagreement with our decision and does not meet this standard. R.E. Scherrer, Inc.--Recon., B-231101, Sept. 21, 1988, 88-2 CPD ¶ 274. Although NEI cites different IFB language in support of its argument here, the argument remains the same as in its protest: that inserting 60 days in the acceptance period space, if considered in the context of the IFB language, clearly indicated an intent to offer 180 total days. Again, this does not warrant reconsidering our decision. Further, even if we viewed NEI's argument here as distinct from its original protest argument, it also is well established that arguments raised for the first time in a reconsideration request do not warrant reconsidering our decision where the new arguments could have been raised in the original protest. See Oakcreek Funding Corp.--Recon., B-248204.3, Nov. 10, 1992, 92-2 CPD ¶ 337. NEI's argument here, to the extent that it is different from its original argument, clearly could have been raised in the original protest.

In any case, for the protester's information, the argument here does not eliminate the bid ambiguity on which our prior decision was based. While NEI does not believe 60 days is a reasonable interpretation of its bid, its view is based on an assumption that no bidder purposely would insert less than the required acceptance period. However, there is no basis for making such an assumption since a bidder, by inadvertence or some business reason, may intentionally offer less than the required period. The fact that section K.9 referred only to a longer acceptance period in "paragraph (d) above" did not eliminate this possibility, since the space in paragraph (d) was the only place a bidder could insert a shorter period if it so desired. Because it is not possible in situations like this to determine from the face of the bid exactly what was intended at the time the bid was submitted, the integrity of the competitive system necessitates considering all reasonable interpretations of the bid, without regard for post-bid opening explanations; if there is more than one reasonable

interpretation and one of the interpretations would render the bid nonresponsive, the bid must be rejected. Such was the case here.

The request for reconsideration is denied.



Ronald Berger
Associate General Counsel